on to another person, must cease the moment he parts with the possession or dies."

It is true that the Court was concerned with a purported assignment of a statutory tenancy and that Bankes L.J. went on to say that he desired "to reserve the question as to the right of a person who succeeds on the death of a statutory tenant". In the later case of *John Lovibond & Sons Ltd.* v. *Vincent*,[3] however, it was held applying the principle in *Keeves* v. *Dean* that the right of a statutory tenant is a purely personal right and cannot be transmitted by will.

In the circumstances no rights of any sort in respect of the premises occupied by Shaik Abdul Kader passed to the Chief Justice or to his family or to his personal representative or to anybody else and those who were in physical occupation of the premises after his death were trespassers.

For these reasons I would dismiss the appeal with costs.

Barakbah C.J. (Malaya) and **Wee Chong Jin C.J. (Singapore)** concurred.

Appeal dismissed.

Solicitors: *L. A. J. Smith*; *Donaldson & Burkinshaw.*

HORNBEAM CO. LTD. v. LEMBAGA ALAT-ALAT PEMBAJARAN LUAR NEGERI & ORS.

[F.C. (Thomson L.P., Wee Chong Jin C.J. & Tan Ah Tah J.) December 18, 1963]

[Singapore — Federal Court Civil Appeal No. 72 of 1963]

Practice & Procedure—Interlocutory order by former Court of Appeal (Singapore)—Leave to appeal to the Yang di-Pertuan Agong—When Federal Court "considers" it fit for appeal—Grounds on which leave will be granted—Courts Ordinance (Cap. 3), s. 31(1)(b)—Malaysia Act, 1963.

Leave to appeal to the Yang di-Pertuan Agong against an interlocutory order of the former Court of Appeal (Singapore) will be granted only if the applicants can bring themselves within section 36(1)(b) of the (Singapore) Courts Ordinance which as read with the Malaysia Act states that an appeal will lie from any interlocutory judgment or order if the Federal Court "considers" it a fit one for appeal to His Majesty.

Before the applicants can succeed they must be able to show that there is at least an arguable case for reversing the conclusion at which the Court of Appeal arrived. They must show that not only are there defects in the chain of reasoning which led to the result but also that they were deprived of something to which they were entitled, in some way prejudiced and that they are in some way likely to suffer if the decision appealed from is allowed to stand.

Case referred to:—

(1) *Banks* v. *Hollingsworth* [1893] 1 Q.B. 442.

FEDERAL COURT.

A. P. Godwin for the appellants/applicants.

E. W. Barker for the respondents.

Thomson L.P. (delivering oral judgment):

This is an application for leave to appeal to His Majesty the Yang di-Pertuan Agong against an order of the former Court of Appeal in Singapore.

The order which it is sought to appeal against is not a final one. It is an interlocutory one and although the amount of money involved is said to be very great (something in the neighbourhood of two and a half million dollars) the appellants are only entitled to appeal if they can bring themselves within section 36(1)(b) of the Singapore Courts Ordinance which as read with the Malaysia Act says that an appeal shall lie from the Court of Appeal (that is the Singapore Court of Appeal) to the Yang di-Pertuan Agong from any interlocutory judgment or order which the Federal Court considers a fit one for appeal to His Majesty.

In view of certain observations of Lord Esher in the case of *Banks* v. *Hollingsworth* [1] I would emphasise the word "considers".

The history of the matter is this.

On 22nd February, 1960, an action was commenced by the Exchange Control Board in Indonesia, and a banking company incorporated in Holland, against the defendants. The claim was based on the alleged infringement by the defendants of certain rights of the Exchange Control Board under a number of bills of lading which had been assigned by the Board to the Dutch Bank.

The defence was that the Exchange Control Board never had any rights under the bills of lading, that if it had any rights they had not been infringed in any way by the defendants and that in any event if the Board had any such rights and if they had been infringed by the defendants they had not been properly assigned to the Dutch Bank.

That was the framework of the action which was commenced by writ on 22nd February, 1960. At some time, whether before or after that date is by no means clear and in my view immaterial, the Government of Indonesia took some sort of action in respect of the Dutch Bank. That action has been described by the word "nationalised" and I do not think there is any concern of ours at this stage what is the exact connotation of the word. In consequence of what was done, however, it was thought that the rights *tanta et talia* of the Dutch Bank had passed or been assigned to a body called the Bank Koperasi, Tani dan Nelajan (which I shall call the "Co-operative Bank").

On that there were two courses open to the plaintiffs and to the Co-operative Bank.

The Co-operative Bank could have issued a writ against the defendants and then no doubt there would have been proceedings taken to have the two actions, which would then have been

pending, consolidated; or the original two plaintiffs could apply to have the Co-operative Bank joined as a third plaintiff.

On the face of it the second of these courses would seem to be that favoured by considerations both of convenience and economy (I express no definitive opinion on the point) and it was the course that was followed.

On 21st June, 1962, the second plaintiffs applied to the High Court for an order adding the Co-operative Bank as plaintiffs. This application was not opposed by the defendants and in due course an order was made in terms as prayed. That order was made on 25th June, 1962, and some ten days later, on 4th July, an amended statement of claim was filed giving effect to that order.

Nothing was done by the defendants for over three months and then, on 19th October, they applied to a Judge in Chambers for an order to strike out the name of the Co-operative Bank as a plaintiff. That application was dismissed.

Against that order of dismissal the defendants applied to the Court of Appeal. That appeal was unsuccessful and we are now asked to say that it is a case which we consider a fit one for further appeal to His Majesty.

For myself I propose for the purpose of the present application to assume that the Judge was wrong and that the Court of Appeal was wrong, in the sense that the course of reasoning which led the Court of Appeal to its decision was erroneous. In my view that is a correct approach to a matter of this nature. Everything must be presumed in favour of the applicant.

But assuming all that, I think, particularly in procedural matter of this nature, the applicant must show us that there is at least an arguable case for reversing the conclusion at which the Court of Appeal arrived. He must show us that not only are there defects in the chain of reasoning which led to the result but he must also show us that he has been deprived of something to which he is entitled, he was in some way prejudiced and that he is in some way likely to suffer in consequence, if the decision against which he appeals is allowed to stand.

For myself I am sorry to have to say I have failed to discern any such consideration in the argument which has been addressed to us.

Admittedly the sum of money involved is a very large one. One consequence of that, of course, would seem to be that there is a great deal to be said for the liabilities and rights of the parties being disposed of at an early date. It does seem to me, however, that the only results if we countenance this appeal will be to increase the delay which has already been considerable and to increase the costs which clearly are already considerable and are clearly going to be very, very much greater before the matter is finally concluded. In any event, and this seems to me a conclusive argument, if a further appeal were allowed and were successful it would in no way protect the defendants against the contemplated attack on them by the Co-operative Bank. Counsel has assured us there is no question of limitation involved in the matter and clearly if a further appeal were taken and if it were successful the course would still be open to the Co-operative Bank to issue a separate writ. And then everybody would be back where they started.

For myself, therefore, I would refuse leave and would dismiss the application with costs.

Wee Chong Jin C.J. (Singapore) and **Tan Ah Tah J.** concurred.

Application dismissed.

Solicitors: *Donaldson & Burkinshaw; Lee & Lee.*

SUM KUM v. DEVAKI NAIR & ANOR.

[F.C. (Thomson L.P., Wee Chong Jin C.J. (Singapore) & Tan Ah Tah J.) December 19, 1963]

[Singapore — Federal Court Civil Appeal No. 22 of 1963]

Damages—Fatal accident—Dependency—Amount of —Insufficient evidence adduced at trial.

In an action for damages it is for the plaintiff to prove his damages, it is not enough to write down the particulars, and "throw them at the head of the Court, saying: 'This is what I have lost; I ask you to give me this damages'." He has to prove it.

Case referred to:—

(1) *Bonham-Carter* v. *Hyde Park Hotel, Ltd.* (1948), 64 T.L.R. 177, 178.

FEDERAL COURT. Appeal from Muar High Court.

Denis Murphy for the appellant.

V. C. George for the respondent.

Wee Chong Jin C.J. This appeal only relates to the quantum of damages awarded in a running-down case.

The deceased's income, according to the case for the plaintiffs, came from two businesses — one in Cha'ah and one in Segamat. The business at Cha'ah, according to the evidence of the plaintiffs, was run by the deceased and the business at Segamat was run by the deceased's widow. The evidence of the plaintiffs is that the nett income from the Segamat business, which was a tuckshop catering for two schools in Segamat, was used by the widow for expenses in connection with the running of the household.

The learned trial Judge in his judgment accepted the plaintiffs' evidence as to the business at Cha'ah and also accepted the plaintiffs'